



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/398,842 09/17/99 YOUNG

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027746 QM12/0914  
THE PROCTER & GAMBLE COMPANY  
PATENT DIVISION  
HEALTH CARE RESEARCH CENTER  
8340 MASON-MONTGOMERY ROAD  
MASON OH 45040

EXAMINER

WEBB, T	ART UNIT	PAPER NUMBER
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3761  
DATE MAILED:

09/14/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/398,842	YOUNG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jamisue A. Webb	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 09 August 2001.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

***Claim Objections***

1. Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Applicant has amended independent claim 1, to recite the limitation of the metallocene polypropylene spunbond fibers, claim 4 is dependent on claim 1, therefore claims 4 fails to further limit the subject matter of Claim 1..

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roe et al (6,120,783) in view of Gillespie et al. (5,783,503).

5. With respect to claims 19 and 20: Roe discloses an absorbent article (20) with a backsheet (42), a topsheet (38) and an absorbent core (48) located there between. Roe discloses the use of barrier cuffs (62) with a proximal edge (64), a distal edge (66), where proximal edge is secured to the outercover and uses spacing elastic elements (76). Roe discloses the use of an effective amount of skin care composition provided on the carrier cuffs (see claim 7).

6. Roe, as disclosed above, teaches the use of the barrier cuffs being spunbond polypropylene (column 12, line 66 to column 13, line 26), but fail to teach the use of a fiber having a denier of less than 1.3.

7. Gillespie teaches the use of microdenier fibers with a denier in the range from 0.1 to 0.3 denier per filament (column 6, lines 28-31) and can be made from polypropylene (column 5, lines 1-16) and are used in spunbond products (column 2, lines 4-8) and can be used for such things as topsheets, backsheets and leg cuffs in diapers (column 7, lines 11-15).

8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the barrier cuffs of Roe be made from the microdenier fibers of Gillespie, in order to produce nonwovens of surprising strength, barrier and cover. (see Gillespie, abstract)

9. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roe et al (6,120,783) in view of Gillespie et al. (5,783,503), and Shultz et al. (6,103,647).

10. With respect to Claims 1, 4 and 7: Roe discloses an absorbent article (20) with a backsheet (42), a topsheet (38) and an absorbent core (48) located there between. Roe discloses the use of barrier cuffs (62) with a proximal edge (64), a distal edge (66), where proximal edge is secured to the outercover and uses spacing elastic elements (76). Roe discloses the use of an effective amount of skin care composition provided on the carrier cuffs (see claim 7).

11. Roe, as disclosed above, teaches the use of the barrier cuffs being spunbond polypropylene (column 12, line 66 to column 13, line 26), but fail to teach the use of a fiber having a denier of less than 1.3.

12. Gillespie teaches the use of microdenier fibers with a denier in the range from 0.1 to 0.3 denier per filament (column 6, lines 28-31) and can be made from polypropylene (column 5, lines 1-16) and are used in spunbond products (column 2, lines 4-8) and can be used for such things as topsheets, backsheets and leg cuffs in diapers (column 7, lines 11-15).

13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the barrier cuffs of Roe be made from the microdenier fibers of Gillespie, in order to produce nonwovens of surprising strength, barrier and cover. (see Gillespie, abstract)

14. Roe and Gillespie disclose the use of polypropylene microdenier fibers, but fail to disclose the use of metallocene polypropylene spunbond fibers.

15. Shultz discloses the use of metallocene polymers, such as polypropylene, and can be developed by spunbonding (column 9, lines 25-32; column 10 lines 63-65).

16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the polypropylene fibers of Roe and Gillespie to the metallocene polypropylene fibers, as disclosed

by Shultz, in order to provide a fabric that has excellent barrier, breathability, elasticity and a pleasing hand. (see Shultz column 9).

17. With respect to Claims 2, 5 and 6: Roe discloses the barrier cuffs being made using spunbonded techniques, which does not have any meltblown fibers. (column 12, line 66 to column 13, line 26).
18. With respect to Claim 3: Roe discloses the topsheet and the barrier cuffs are made from the same element (column 13, lines 59-65) and discloses the topsheet having a basis weight of 14 grams per square meter (column 11, lines 1-12).
19. With respect to Claim 8: see Roe claim 13.
20. With respect to Claim 9: see Roe Claim 8.
21. With respect to Claim 10: see Roe Claim 9.
22. With respect to Claim 11: see Roe Claim 10.
23. With respect to Claim 12: see Roe Claim 12.
24. With respect to Claim 13-16: Roe discloses a skin care composition being placed either the body facing surface, or the garment facing surface and capable of transferring from the garment facing surface to the body facing surface (column 8, line 54 to column 9, line 22).
25. With respect to Claim 17: Roe discloses the use of gasket cuffs (56).
  
26. Claims 1-2, 4-6, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson (4,695,278) in view of Gillespie et al. (5,783,503), and Shultz et al. (6,103,647).
27. With respect to Claims 1 and 19: Lawson discloses an absorbent article (20) with a backsheet (42), a topsheet (38) and an absorbent core (48) located there between. Lawson discloses the use of barrier

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cuffs (62) with a proximal edge (64), a distal edge (66), where proximal edge is secured to the outercover (Figure 3) and uses spacing elastic elements (76).

28. Lawson, as disclosed above, teaches the use of the barrier cuffs being spunbond polypropylene (column 9, lines 1-12), but fail to teach the use of a fiber having a denier of less than 1.3.

29. Gillespie teaches the use of microdenier fibers with a denier in the range from 0.1 to 0.3 denier per filament (column 6, lines 28-31) and can be made from polypropylene (column 5, lines 1-16) and are used in spunbond products (column 2, lines 4-8) and can be used for such things as topsheets, backsheets and leg cuffs in diapers (column 7, lines 11-15).

30. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the barrier cuffs of Lawson be made from the microdenier fibers of Gillespie, in order to produce nonwovens of surprising strength, barrier and cover. (see Gillespie, abstract).

31. Roe and Gillespie disclose the use of polypropylene microdenier fibers, but fail to disclose the use of metallocene polypropylene spunbond fibers.

32. Shultz discloses the use of metallocene polymers, such as polypropylene, and can be developed by spunbonding (column 9, lines 25-32; column 10 lines 63-65).

33. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the polypropylene fibers of Roe and Gillespie to me metallocene polypropylene fibers, as disclosed by Shultz, in order to provide a fabric that has excellent barrier, breathability, elasticity and a pleasing hand. (see Shultz column 9).

34. With respect to Claim 2, 5 and 6: Lawson discloses that the barrier cuffs may be spunbonded, therefore no (0%) meltblown fibers are used.

35. With respect to Claim 17: Lawson discloses the use of gasket cuffs (56).

36. With respect to Claim 18: Lawson discloses the topsheet and the barrier cuffs are made from the same element (column 9, lines 52-57).

*Response to Amendment*

37. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. It should be noted that independent claims 19 and 20 were not amended to recite the metallocene polypropylene, and therefore rejections with respect to these claims stand as stated above. Applicant has only argued the references as so far as they do not produce the metallocene polypropylene, this is a new limitation in the claim and the rejection has been changed to cover this limitation.

38. With respect to applicant's arguments that Shultz discloses the use of meltblown fibers: the applicant stated that in the instant specification the invention teaches away from meltblown fibers. The applicant has argued that the specification teaches away from using a SMS laminate, and therefore one of skill in the art would not be able to obtain the instant invention. Shultz, however, teaches in column 9 that the metallocene polymers can be made from either spunbonding or meltblowing, and that the sunbonding polymers can replace the meltblowing fibers, therefore it is the examiners position that Shultz, in combination with Lawso and Gillespie, discloses the claimed invention.

*Conclusion*

39. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw JW  
September 12, 2001

